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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,322	12/12/2003	Charles F. Harris JR.	HARRIS-2	1379
<div>7590 HUNTLEY, L.L.C. Donald W. Huntley 1105 N. Market Street P. O. Box 948 Wilmington, DE 19899-0948</div>				
EXAMINER				
LAVINDER, JACK W				
ART UNIT		PAPER NUMBER		
3677				
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02/25/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/734,322

**Applicant(s)**

HARRIS ET AL.

**Examiner**

Jack W. Lavinder

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45, 47-59 and 65-68 is/are pending in the application.
- 4a) Of the above claim(s) 5-10, 20-45, 48 and 66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 11-19, 47, 49-54, 56-59, 65, 67 and 68 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 5-10, 20-22, 23-27 and 66 (now drawn to a non-elected species, figures 13-14), 28, 29-35 (now are withdrawn and should have been withdrawn previously because they depend from withdrawn claim 22), 37-38, 41-44, 48, and 36, 39-40, 45 (now withdrawn as being directed to a non-elected species, figures 15-16) have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claims 46 and 60-64 have been cancelled.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the semi-circular ends of the proximal and distal ends of the step member (claim 59) must be shown or the features canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "material(s)" in line 2 of the claim is unclear and indefinite. Are there more than one material being claimed for the step member?

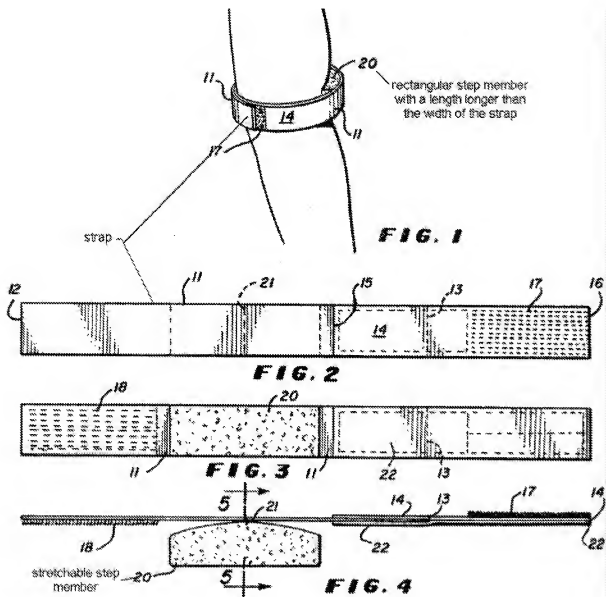
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

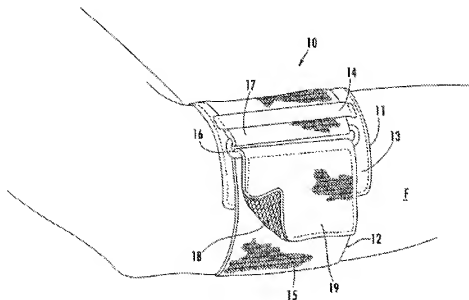
Claims 1, 4, 11-12, 14, 19 and 65 have been rejected under 35 U.S.C. 102(b) as being anticipated by Sanderson, 3586001. Sanderson discloses the claimed device as shown in the annotated drawing.



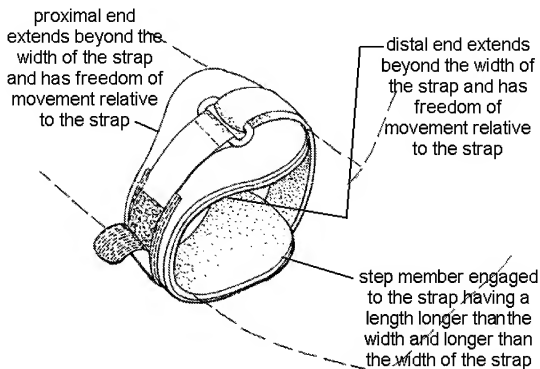
Regarding claim 14, Sanderson discloses that the body contacting surface (22) of the strap is made from a non-woven fabric (leather).

Regarding claim 19, Sanderson discloses an outer surface of the strap made from a non-woven fabric, i.e., leather (13) and the elastomeric material (11, non-woven fabric).

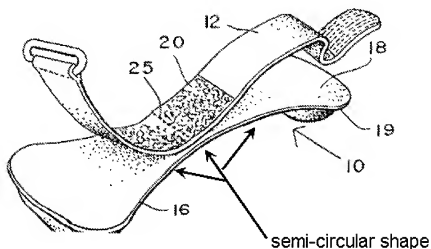
Claims 47, 49-54 and 67 have been rejected under 35 U.S.C. 102(b) as being anticipated by Darcey, 6478760. Darcey discloses the method of providing a stretchable strap (12) having wing sections (shown at 11 in the drawing) that extend and are free to move beyond the nominal width of the strap, and wrapping the strap around a body part so that the strap is under tension.



Claims 56-59 and 68 have been rejected under 35 U.S.C. 102(b) as being anticipated by Slautterback, 6398749. Slautterback discloses the claimed invention as shown in the annotated drawing.



Regarding claim 59, the proximal and the distal ends terminate in a semi-circular shape (see annotated drawing).



### ***Claim Rejections - 35 USC § 103***

Claim 13, 16-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Sanderson, 3586001.

Regarding claim 16, Sanderson discloses attaching the step member to the strap with a thread. The claim requires that the fastening means be an adhesive substance. It is old and well known that adhesive and thread attaching fasteners are obvious design equivalents, i.e., both perform the same function equally as well as the other. It would have been obvious to use an adhesive in place of the threaded securing means in Sanderson to attach the step member to the strap.

Regarding claims 13, 17-18, Sanderson fails to disclose the specific properties of the elastic material used to form the band 11. The specification fails to disclose any



criticality associated with these specific material properties. Materials, such as neoprene, polyethylene, polyurethane and spandex, with the claimed specific properties are old and well known. Therefore, it would have been obvious to make Sanderson's elastic band from this well known material.

***Allowable Subject Matter***

Claims 2-3 and 55 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jack W Lavinder/  
Primary Examiner, Art Unit 3677